

Agricultural Marketing Service, USDA

§ 1208.16

under cover or in field operations, but not including foliage plants, floral supplies, or flowering plants.

§ 1208.6 Cut flowers and greens.

The term *cut flowers and greens* means either cut flowers or cut greens, even though the cut flowers or cut greens are sold as separate commodities by a person in the floral marketing system, or cut flowers and cut greens collectively when both commodities are sold by a person in the floral marketing system.

§ 1208.7 Department.

Department means the United States Department of Agriculture.

§ 1208.8 Exempt handler.

Exempt handler means a person who would otherwise be considered to be a qualified handler except that the person's annual sales of cut flowers and greens to retailers and other exempt handlers is less than \$750,000.

§ 1208.9 Fiscal year.

Fiscal year means a 12-month period recommended by the Council and approved by the Secretary.

§ 1208.10 Gross sales price.

Gross sales price means the total amount of the transaction in a sale of cut flowers and greens from a handler to a retailer or exempt handler including but not limited to charges such as containers, pre-cooling, packing, sleeving, delivery, freight, shipping, or other charges necessary to the protection and preservation of the cut flowers and greens.

§ 1208.11 Order.

Order means this subpart.

§ 1208.12 Part and subpart.

Part means the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order and all rules and regulations issued pursuant to the Act. The order itself shall be a subpart of such part.

§ 1208.13 Person.

Person means any individual, group of individuals, firm, partnership, cor-

poration, joint stock company, association, society, cooperative, or other legal entity.

§ 1208.14 Promotion.

Promotion means any action determined by the Secretary to advance the image, desirability, or marketability of cut flowers and greens, including paid advertising.

§ 1208.15 Producer that is a qualified handler.

Producer that is a qualified handler means an entity that is engaged: In the domestic production, for sale in commerce, of cut flowers and greens and that owns or shares in the ownership and risk of loss of the cut flowers and greens; or as a first processor of non-cultivated greens, in receiving the greens from a person who gathers the greens for handling; and is subject to assessments as a qualified handler under the order.

§ 1208.16 Qualified handler.

Qualified handler means a person operating in the cut flowers and greens marketing system that sells domestic or imported cut flowers and greens to retailers and exempt handlers and whose annual sales of cut flowers and greens to retailers and exempt handlers are \$750,000 or more. The term does not include a person who only physically transports or delivers cut flowers and greens. However, the term does include, but is not limited to, the following entities when they have the requisite volume of sales of cut flowers and greens as provided in §§1208.50 and 1208.57:

(a) A qualified wholesale handler—a person in business as a floral wholesale jobber (*i.e.*, a person who conducts a commission or other wholesale business in buying and selling cut flowers and greens) or as a floral supplier (*i.e.*, a person engaged in acquiring cut flowers and greens to be manufactured into floral articles or otherwise processed for resale) if the annual value of the qualified wholesale handlers sale of cut flowers and greens to retailers and exempt handlers is \$750,000 or more;

(b) A manufacturer of bouquets for sale to retailers if the cut flowers and

§ 1208.17

greens used in such articles are a substantial portion of the value of the manufactured floral articles;

(c) A manufacturer of floral articles (other than bouquets) for sale to retailers if the cut flowers and greens used in such articles are a substantial portion of the value of the manufactured floral articles;

(d) An auction house that clears the sale of cut flowers and greens to retailers and exempt handlers through a central clearinghouse;

(e) A distribution center that is owned or controlled by a retailer if the predominant retail business activity of the retailer is floral sales. In addition to sales, non-sale transfers of cut flowers and greens by the distribution center to retail outlets, shall be counted for the purpose of applying the \$750,000 minimum volume rule to the center and the value of such transfers shall be determined as provided in §§1208.50 and 1208.57;

(f) An importer that is a qualified handler—a person whose principal activity is the importation of cut flowers and greens into the United States (either directly or as an agent, broker, or consignee of any person or nation that produces or handles cut flowers and greens outside of the United States for sale in the United States) and who sells such cut flowers and greens to retailers and exempt handlers or directly to consumers, if the annual combined value of such sales determined as provided in §§1208.50 and 1208.57 totals \$750,000 or more;

(g) A producer that is a qualified handler, *e.g.*, a person who produces cut flowers and greens and who sells such cut flowers and greens directly to retailers or consumers if the annual combined value of such sales determined as provided in §§1208.50 and 1208.57 totals \$750,000 or more.

§ 1208.17 Research.

Research means market research and studies limited to the support of advertising, market development, and other promotion efforts and consumer information efforts relating to cut flowers and greens, including educational activities.

7 CFR Ch. XI (1–1–01Edition)

§ 1208.18 Retailer.

Retailer means a person who sells cut flowers and greens to consumers. The term includes:

(a) All retail outlets that sell cut flowers and greens to consumers including retail florists, supermarkets, and other mass market retail outlets that sell such cut flowers or greens, except distribution centers defined in §1208.16(e) (*i.e.*, centers that are owned or controlled by a retailer if the predominant retail business activity of the retailer is floral sales and whose sales and non-sale transfers of cut flowers and greens to retail outlets total \$750,000 or more, determined as provided in this subpart) even though such centers may also make direct sales to consumers.

(b) Distribution centers owned or controlled by a retailer (or distribution centers owned or controlled cooperatively by a group of such retailers) when the predominant business activity of the retailer or retailers is not the sale of cut flowers and greens to consumers; and

(c) Distribution centers independently owned but operated primarily to provide food products to retail stores.

§ 1208.19 Secretary.

Secretary means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1208.20 Substantial portion.

Substantial portion means that portion of the total value of manufactured floral articles that represents the value of the cut flowers and greens in such articles (expressed as a percentage factor) which the Council, with the approval of the Secretary, finds to be great enough to cause such articles to be classed as cut flowers and greens under this subpart.

§ 1208.21 State.

State means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of